



COMMISSION NEWS

ARIZONA CORPORATION COMMISSION, 1200 W. WASHINGTON, PHOENIX, AZ 85007

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ARIZONA APPROVES MERRILL LYNCH SETTLEMENT **Arizona to get \$854,732 from agreement**

PHOENIX - With a unanimous vote yesterday, the Arizona Corporation Commission approved the state's participation in the global settlement with Merrill Lynch over the "analyst conflict issue." A total of \$854,732 will be paid into the Arizona State General Fund as a result of the Commission order approving the settlement. This money represents Arizona's pro-rata share of the settlement proceeds.

Before the settlement, Merrill Lynch faced charges that it published misleading ratings for internet stocks that did not reflect the analysts' true opinions of the companies due to an undisclosed, internal policy of not issuing "reduce" or "sell" recommendations.

Research analysts employed or contracted by Merrill Lynch were also accused of acting as quasi-investment bankers for the companies at issue, often initiating, continuing and/or manipulating research coverage to attract and keep investment banking clients. This activity resulted in misleading ratings that were neither objective nor independent, even though the ratings were represented as such. Merrill Lynch failed to disclose this conflict of interest.

As part of the settlement, Merrill Lynch agreed to implement major changes with respect to its Global Equity Research analysts and equity securities covered by those analysts. In part, these changes include:

- Disclosing on its research reports any investment banking compensation Merrill Lynch received or expects to receive from the companies covered
- Separating compensation for its research analysts from its investment banking business
- Prohibiting investment bankers from otherwise influencing analysts' compensation
- Establishing a Research Recommendations Committee to ensure the veracity of its equity research recommendations
- Prohibiting all employees from promising or implying that a recommendation would be made in exchange for Merrill Lynch being awarded an investment banking transaction, and

- Designating a compliance monitor who will ensure compliance of the agreement and be available to research analysts who feel undue influence or pressure from any source.

In an effort to avoid multiple investigations by other regulators, Merrill Lynch also agreed to pay a total of \$100 million of which \$48 million will be paid to New York in a civil settlement. Two million dollars will go to the North American Securities Administration Association (NASAA) to help fund investor education programs and the remaining \$50 million will be divided among 48 states, the District of Columbia and Puerto Rico.

Again, Arizona's portion of the payment is \$854,732. Settlements or payments arising from securities law violations are directed by law to the Arizona General Fund and do not remain with the Arizona Corporation Commission. The Commission's funding is appropriated through the normal state budget process.

The vote culminates a lengthy negotiation process that included securities regulators from the 50 states, the District of Columbia, and Puerto Rico. The settlement, originally forged between Merrill Lynch and the state of New York in May of 2002, has now been approved by 49 states, the District of Columbia, and Puerto Rico. As of press time, Missouri has not yet approved the settlement.

Although approval of the agreement concludes Arizona's investigation and any action the Commission could commence against Merrill Lynch in connection with its past research practices, neither the agreement nor the Commission's order limits any investor's private remedies against Merrill Lynch.

The Commission approved Arizona's participation in the settlement agreement in light of the significant changes Merrill Lynch is making to its research practices as well as the savings Arizona will realize by not having to duplicate the investigative and enforcement efforts already undertaken by the state of New York.

Quotes and commentary from the Commissioners on this case:

Chairman Marc Spitzer: "A lot of middle class Americans have pulled out of the market. Through greed and some degree of neglect, faith in the market was imperiled. I do not accept and will not accept the idea that 'everybody lies.' Not when it comes to the information people necessarily rely upon to make sound investment decisions. This case and others like it should send a clear message that deceit and dishonesty cannot be allowed to exist in the financial markets."

Commissioner Jim Irvin: "I spoke with New York Attorney General Eliot Spitzer and got the answers I needed to assure myself that this settlement is in the best interest of Arizona investors. I was concerned about putting this money back into the pockets of the investors who were wronged by the actions of Merrill Lynch analysts. For a variety of reasons, it simply is not possible to identify who was wronged and by what proportion. Since investors can still pursue private actions to recover their losses, I vote in favor of the settlement."

Commissioner Bill Mundell: "Whether it is called securities fraud, analyst fraud, consumer fraud or just plain old fraud, I have made protecting consumers from this unlawful and unethical behavior a priority of the Commission."

Commissioner Mike Gleason: "When I campaigned throughout Arizona and in my home area of the Sun Cities, many retirees told me of the struggles they now face as a result of the market downturn. Corporate shenanigans and unreliable information create a ripple effect that hurts large and small investors equally. I pledged then and will continue to support vigorous enforcement against any kind of fraud or underhandedness."

Commissioner Jeff Hatch-Miller: "Investors rely on their investments for many things - for vacations, retirement, medical bills and other planned or unexpected expenses - and wise investors need reliable information on where to put their money. Merrill Lynch and others betrayed that trust and I sincerely believe this order will compel these firms to change their behavior."

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